

Congress of the United States
Washington, DC 20515

March 28, 2019

The Honorable Andrew Wheeler
Administrator
U.S. Environmental Protection Agency
1200 Pennsylvania Avenue, N.W.
Washington, DC 20460

Dear Mr. Administrator:

We are writing with deep concern regarding several findings in the recent report by the Government Accountability Office (GAO) entitled “Chemical Assessments, Status of EPA’s Efforts to Produce Assessments and Implement the Toxic Substances Control Act” (GAO-19-270).¹ This report included a close examination of the Environmental Protection Agency’s (EPA) Integrated Risk Information System (IRIS) program. We are disturbed by GAO’s findings of political interference with the IRIS program’s operations and funding. Not only is such interference wholly inappropriate and contrary to both good science and the responsible operation of the IRIS program, it also directly violates Congressional directives.

We are extremely pleased that GAO found that the IRIS program has made great strides in increasing efficiencies in the development of chemical assessments; implementing science-based systematic approaches for data collection, evaluation, and integration; and expanding stakeholder engagement within and outside the agency. The National Academy of Sciences reached a similar positive conclusion in a 2018 review of IRIS.² This progress demonstrates the IRIS program’s remarkable potential to make a positive impact on the quality and rigor of chemical assessments at the EPA.

The Explanatory Statements accompanying both Division G of the Consolidated Appropriations Act, 2018 (Public Law 115-141) and Division E of the Consolidated Appropriations Act, 2019 (Public Law 116-6) include the following direction regarding the EPA:

“The agreement continues to provide funding for the Integrated Risk Information System (IRIS) program at the fiscal year 2017 enacted level and direction that the program continues within the Office of Research and Development.”

¹ <https://www.gao.gov/assets/700/697497.pdf>

² <http://www8.nationalacademies.org/onpinews/newsitem.aspx?RecordID=25086>

Contrary to this clear direction from Congress, EPA leadership took steps to effectively cut the IRIS program's funding by reducing its workload by 50 percent and reassigning significant portions of staff time to other activities. Specifically, according to GAO, EPA leadership announced in a December 2018 memorandum that the IRIS program's planned workflow would be cut in half, from 22 to 11 chemical assessments (GAO-19-270, page 25). Further, EPA leadership reassigned significant portions of nearly all of IRIS staff members' time to support the Office of Pollution Prevention and Toxics (OPPT). GAO reports that in October 2018, "28 of approximately 30 IRIS staff were supporting OPPT with 25 to 50 percent of their time" (GAO-19-270, page 27). We view these steps as clear efforts to debilitate the IRIS program.

These disruptions in IRIS's operations and an effective cut in funding to the program through reprioritization of resources appears to be consistent with proposals included in the President's fiscal year 2018 and 2019 budget requests that were specifically and overwhelmingly rejected by Congress. Although each of those budget requests proposed to cut the IRIS program by nearly 50 percent (from \$21.6 million to \$11.9 million in fiscal year 2019, for example), Congress clearly continued IRIS funding without reductions. These final decisions by Congress were specified in the Explanatory Statement language cited above and the detailed budget tables accompanying the Consolidated Appropriations Act, 2018 and the Consolidated Appropriations Act, 2019. Given that Congress specifically rejected the President's proposal to reduce funding for the IRIS Program, EPA is required to continue the IRIS program at the prior year funding level.

Dedicating significant IRIS staff resources outside of the IRIS program not only strains the IRIS program, but also undermines the work of many other EPA programs because a key responsibility of the IRIS program is to support the chemical assessment needs of other parts of the agency. IRIS's organizational placement in EPA's Office of Research and Development (ORD) critically allows IRIS to apply its internationally regarded scientific approach to chemical assessment free from regulatory and other non-scientific policy factors. Indeed, EPA's own website states:

The IRIS Program is located within EPA's National Center for Environmental Assessment (NCEA) in the Office of Research and Development (ORD). The placement of the IRIS Program in ORD is intentional. It ensures that IRIS can develop impartial toxicity information independent of its use by EPA's program and regional offices to set national standards and clean up hazardous sites.³

Yet, by re-assigning a substantial portion of IRIS staff time outside of ORD, EPA leadership worked at cross-purposes to the program's intent and the agency's own stated goals to support the chemical assessment needs of many other parts of the agency. We also note that the systematic review method being applied to conduct risk evaluations under the Toxic Substances Control Act (TSCA) has not been subject to independent scientific peer review, unlike IRIS's

³ <https://www.epa.gov/iris/basic-information-about-integrated-risk-information-system>

and other authoritative systematic review approaches, despite promises made by you in January to do so.⁴

If the agency required more funding for its toxics programs – even temporarily as the agency waited for enhanced fee collections to begin – there were several opportunities to make that request to Congress. However, rather than request an increase in funding to support new obligations under the Frank R. Lautenberg Chemical Safety for the 21st Century Act (Lautenberg Act), the current administration actually proposed to cut overall funding for EPA by 30 percent in fiscal year 2017 and specifically to cut funding for toxics programs by 30 percent in fiscal year 2018 and 37 percent in fiscal year 2019. Despite these drastic requests, Congress has continued to provide consistent funding – without cuts – for both the toxics and IRIS programs. If EPA required additional funding to meet statutory deadlines in the Lautenberg Act, the budget request should have reflected those needs. Instead, the agency took action to boost one program by undercutting another program – in violation of Congressional directives.

We are also disturbed by GAO's findings of political interference in IRIS's operations. According to GAO, in June 2018, EPA leadership began blocking the release of IRIS assessments and any documents related to assessments under development or nearing completion, including planning documents. Additionally, at your direction, in August 2018 IRIS officials provided a survey to program offices and regional offices asking for input on which chemicals should be prioritized for IRIS assessments. GAO found documentation of robust feedback from the agency that fully re-affirmed the IRIS program's working list of chemical assessments. However, in October 2018, EPA leadership altered the survey solicitation process through a second request – which was never documented – that limited responses to just three or four chemicals. GAO reports that EPA leadership provided no guidance to program offices for selecting priorities nor any explanation as to why a limit on the number of chemicals to be identified was needed. Further, IRIS staff – the experts – were not consulted or even notified by EPA leadership of this significant change in IRIS planning. By manipulating the feedback process, EPA leadership dramatically scaled back IRIS's work plan while ignoring the agency's own experts.

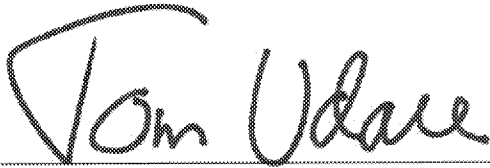
The impacts of these decisions are far reaching and unnecessarily delay actions that could ultimately protect public health. According to GAO, agency regulatory offices rely extensively on IRIS assessments and that “if the IRIS Program is unable to produce assessments, their offices would be challenged to meet statutory deadlines and there would be a generally negative effect on public health” (GAO-19-270, page 26). Further, the impact of undermining IRIS extends outside of EPA and even the United States. According to GAO “state and local environmental programs, as well as some international regulatory bodies, rely on IRIS chemical assessments in managing their environmental protection programs” (GAO-19-270, page 8).

⁴ Letter from then-Acting Administrator Wheeler to Senate Environment and Public Works Committee Ranking Member Thomas R. Carper regarding implementation of the Frank R. Lautenberg Chemical Safety for the 21st Century Act, January 2019, <http://src.bna.com/Ese>.

The Honorable Andrew Wheeler
March 28, 2019
Page 4

We view these actions by EPA leadership as deliberate efforts to undermine the continued operation of the IRIS program. We expect EPA to immediately comply with Congressional direction by reassigning IRIS staff to IRIS activities full time and restoring the program's planned workload to reflect the actual needs of the agency without political interference. We request that EPA notify the Committee immediately upon implementing these changes. We also request that you provide a response to the attached list of questions and requests for documentation by no later than April 12, 2019.

Sincerely,



Tom Udall
Ranking Member
Subcommittee on Interior, Environment,
and Related Agencies
Committee on Appropriations
United States Senate



Betty McCollum
Chair
Subcommittee on Interior, Environment,
and Related Agencies
Committee on Appropriations
United States House of Representatives

Attachment

Request for Information

1. Please provide complete data on the amount of IRIS staff time utilized to support the TSCA program during fiscal year 2018 and fiscal year 2019 to date. Please include both the number of individual staff assigned to TSCA efforts and hours worked, by month.
2. For IRIS staff assigned to the TSCA program, what was the funding source for the staff time dedicated to the TSCA program? Specifically, were the staff salaries paid from the Research: Chemical Safety and Sustainability, Human Health Risk Assessment program funding (which funds the IRIS program) or was that program funding reimbursed from Toxics Risk Review and Prevention program funding (which funds the TSCA program)? Was the arrangement the same, or different, for non-salary expenses incurred by IRIS employees while performing work for the TSCA program?
3. Please provide complete data on the amount of staff time utilized from the Safer Choice program and any other program staff time spent to support TSCA implementation for fiscal year 2018 and fiscal year 2019 to date. Please include both the number of individual staff and hours worked, by month.
4. For Safer Choice and any other program staff assigned to the TSCA program, what was the funding source for the staff time spent on the TSCA program? Specifically, were the staff salaries paid from the relevant program funding or was that program funding reimbursed from Toxics Risk Review and Prevention program funding (which funds the TSCA program)? Was the arrangement the same, or different, for non-salary expenses incurred by such relevant program employees while performing work for the TSCA program?